

SUPREME COURT UNITED STATES.—APPEALS PROVIDED FOR IN CERTAIN CRIMINAL CASES.

[To accompany Bill H. R. No. 56.]

MARCH 14, 1860.

MR. HICKMAN from the Committee on the Judiciary, made the
following

REPORT.

The Committee on the Judiciary, to whom was referred "A bill to provide for an appeal to the Supreme Court of the United States in certain criminal cases," having had the same under consideration, respectfully report:

That in their opinion it is desirable to make provision by law for a review by the Supreme Court of the United States on appeal by the defendants in criminal cases from the judgments of the circuit and district courts of the United States. These courts, by existing laws, have power to try persons accused of all offences against the United States, for which the punishment on conviction is death, imprisonment, or the imposition of a pecuniary fine. From these judgments there is now no appeal, although oftentimes there are involved questions of the gravest importance, and of great difficulty, upon the solution of which the liberty of the citizen depends. The rights of personal liberty and the rights of property are equally entitled to protection under the constitution of the United States; and the reason upon which the right of review is given in civil cases applies with equal force in criminal cases, provided care is taken to guard against frivolous appeals, and the execution of judgments against offenders is not unnecessarily obstructed.

The bill proposed limits an appeal by the defendant to cases in which the punishment is death, imprisonment for one year or more, or a fine of more than one thousand dollars; and provides that in such case the defendant may take exceptions to any matter of law ruled on the trial, and may have upon conviction a bill of exceptions prepared, settled, and certified by the presiding judge, and made a part of the record of judgment. It further provides, that, if found guilty, the defendant may, at the same term of the court, take an appeal to the Supreme Court of the United States, which shall be entered in the minutes, and an order made staying the execution of the judgment until the appeal be determined; and that in the meantime the defendant shall remain imprisoned; or if the punishment be

by a fine, he may be discharged from custody by paying into court the amount of the fine and all costs, or by entering into recognizance as provided in the amendment herewith reported, to abide by the decision of the Supreme Court.

The clerk of the court in which the conviction shall be had is required immediately to transmit one copy of the record to the Supreme Court of the United States and one copy to the Attorney General. If the record be not filed within the first ten days of the next term of the Supreme Court the judgment below shall be affirmed, on motion of the Attorney General; or if filed, the court shall proceed to hear the cause upon its merits, giving it preference over civil causes.

These are the leading features of the proposed bill, and with some amendments as to detail which your committee propose, and which are hereto annexed, marked A, they recommend its enactment.

The provision which allows an appeal to be taken as a matter of right in the cases provided for in the first section, may seem obnoxious to the objection that it will encourage appeals for mere delay. This may happen in some cases, but we think such cases will be rare, as it is provided that pending the appeal the accused is to remain imprisoned, which will add so much to the extent of his punishment if the appeal be frivolous, unless, as in case of the imposition of a fine, he execute the judgment by its payment. In capital cases the execution of the judgment would only be for a brief period postponed, and in such a case we see no objection to allowing the largest liberty of defence consistent with the final execution of legal justice. Moreover, it is not easy to restrict these rights of appeal in such cases except by conferring upon the judge who tries the case some power in respect to it, and this might in some cases defeat the very right of appeal upon which the life or liberty of the accused should depend. As the bill provides for a speedy determination of such appeals by the Supreme Court, it is better to stand the hazard of frivolous appeals than to place it in the power of any judge before whom a party has been convicted to prevent a review of his decision. It may be said, also, that a review by means of a writ of error would be more appropriate than by appeal. As this writ issues out of the Supreme Court of the United States, its issuing and allowance would necessarily be attended with delay; and as the appeal provided for removes the whole record, the same object is accomplished which would be achieved by writ of error, without delay and with less formality.

Your committee, therefore, recommend that, with the amendments they propose, the bill do pass.